In the Supreme Court of the United States

OCTOBER TERM, 1970

No. 1135

LOUIS SOBRATOW, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

After a trial by jury, petitioner was found guilty of participating in a scheme to defraud in violation of the second paragraph of 18 U.S.C. 2314, and was sentenced to fifteen months' imprisonment. The court of appeals affirmed (Pet. App. 7–14).

The relevant facts are set forth in the opinion below (Pet. App. 8–10). Briefly, the evidence showed that in January 1966, petitioner and one Jack Watters[1] met Lillian Nadler, a wealthy New York widow, while she was enroute to Miami, Florida. With petitioner's

[1] Watters and one Polakoff were also indicted under 18 U.S.C. 2314; petitioner was granted a severance and was tried separately (Pet. App. 7–8).

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assistance, Watters developed an intimate relationship with her in Miami. After Mrs. Nadler returned to New York, Watters invited her to Fayetteville, North Carolina, where he and petitioner represented themselves as partners in a construction business and pretended they needed money for a business emergency. Mrs. Nadler traveled with Watters to New York and gave him money from a savings account to meet the supposed emergency. On a subsequent trip to New York, Watters, accompanied by petitioner, again misrepresented a "business emergency" to Mrs. Nadler and obtained funds from her. In April 1966, Watters induced Mrs. Nadler to move to Florida to be with him, urging that he could not leave Florida because of a pretended deep involvement in a corporate business venture with petitioner and another. The next month Mrs. Nadler accompanied Watters to New York at the latter's request on two "buying trips"; the counts on which petitioner was convicted were based on these trips. While in New York, Mrs. Nadler was first induced to part with approximately $50,000, and then with $30,000. Petitioner received a substantial portion of the sums taken from Mrs. Nadler.

Petitioner asserts (Pet. 5) that Mrs. Nadler's trips to New York were not connected with the scheme to defraud her but rather were for other purposes, and that therefore the interstate travel element of the offenses of which he was convicted was not established. But the fact is that Mrs. Nadler was defrauded of substantial sums shortly after Watters persuaded

her to accompany him to New York on false "buying trips." As the court below concluded (Pet. App. 11–13), a jury could properly find from this fact and the other circumstances of this case that petitioner and his co-defendants were engaged in a fraudulent scheme to acquire Mrs. Nadler's money, and that the trips from Miami to New York were a necessary part of that scheme. Compare *Pereira* v. *United States*, 347 U.S. 1.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ERWIN N. GRISWOLD,
Solicitor General.

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